

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GEORGE PAUL CHIU
1160 Lincoln Avenue, Apt. 210
Walnut Creek, CA 94596

Pharmacist License No. RPH 31703

Respondent.

Case No. 2367

OAH No. N 2002010263

PROPOSED DECISION

Administrative Law Judge Stewart A. Judson, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on May 8, 2002.

W. Lloyd Paris, Deputy Attorney General, represented complainant Patricia F. Harris, Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, State of California.

Respondent George Paul Chiu represented himself.

The matter was submitted on May 8, 2002.

FACTUAL FINDINGS

1. George Paul Chiu (respondent) holds pharmacist license No. RPH 31703 issued by California State Board of Pharmacy on December 19, 1977. Respondent's address of record, as of the date of this hearing, is 1160 Lincoln Avenue, Apt. 210, Walnut Creek, California 94596. Respondent's license has been on suspension since January 31, 2002, pursuant to a court order.

2. Patricia F. Harris made the accusation in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, State of California.

3. On March 8, 2001, in the Superior Court of California, County of Contra Costa, respondent was convicted, on his plea of nolo contendere, to a violation of Penal Code sections 487(a)/508 (Grand Theft–Embezzlement by Clerk, Agent or Servant–2 counts), 459(a)-460(b) (Commercial Burglary–Second Degree–2 counts), 496(a) (Receiving Stolen Property–4 counts), and Health and Safety Code section 11351 (Possession of Controlled Substances for Sale–1 count), all felonies, crimes involving moral turpitude and crimes related substantially to the duties, qualifications and functions of a licensed pharmacist.

4. The Court sentenced respondent to the California Department of Corrections for a total of two years on each count to be served concurrently. Probation was denied. In addition, respondent was ordered to pay fines and fees totaling \$685 and make restitution in an amount to be determined. Respondent is also required to register under Health and Safety Code section 11590.

5. In May 2000, respondent was working as a pharmacist at the Kaiser Foundation Health Plan, Inc. (Kaiser) pharmacy in Antioch, California. On May 22, 2000, an Antioch undercover narcotics officer was called to the pharmacy by a Kaiser divisional investigator to review a videotape. The tape showed respondent removing various bottles or vials of prescription drugs from shelves and placing them in a Kaiser tote basket over a 40-minute period on a previous date. Respondent was then arrested in the pharmacy parking lot.

6. Officers found some 215 prescription medications worth \$27,960 in respondent's vehicle. The medications were in their original containers that were imprinted with the Kaiser logo. Also discovered was a Kaiser tote basket. A search warrant was obtained for respondent's residence in Oakland where his mother resided. They found there, in his bedroom, bathroom and kitchen, a larger supply of medications in Kaiser containers. Also located was a tote basket with the Kaiser insignia. The value of these drugs was \$56,943.

7. Respondent served ten months in the County Jail at Martinez. He was transferred to San Quentin Prison for three months for processing. He was moved to Los Angeles where he was placed in a work furlough program for six months and then released to the Bay Area on parole. He has been residing in Contra Costa County since August 2001.

8. Respondent is 52 years old. He was born in Hong Kong and immigrated with his family to the United States in 1955. He graduated from San Francisco's Lowell High School in 1968, attended San Francisco City College and ultimately obtained a BA degree in biology from San Francisco State University in 1973. He attended pharmacy school in Idaho and graduated in 1977.

9. Following his return to California, respondent worked mostly part time as a pharmacist because of stress he was experiencing on the job. Nonetheless, he also operated a relief pharmacy service from 1982 to 1989 and a fast food restaurant from 1981 to 1983. In 1984, he began selling telephone PBX systems while also working as a pharmacist. In 1987, he obtained an insurance agent license from the California Department of Insurance and began working for Al Williams Insurance Company while working part time as a pharmacist.

10. He was divorced in the early 1990s, let his insurance license expire and traveled to Asia with a partner to explore business possibilities. He set up an environmental company in Taiwan and introduced the concept of the web page in the Philippine Islands in 1995. In 1997, he became an investor and helped raise money for Voice Keyboard, a Florida company for which he served as marketing director. He raised \$500,000 from families and friends to start the company.

11. Respondent admits he began stealing drugs from Kaiser in the mid-1990s. When Voice Keyboard began foundering, he increased his thefts. He estimates he obtained in excess of \$100,000 in profits by selling the drugs he stole to a friend who owned a pharmacy. He avows he used the money to pay bills, including credit card expenses, and rent. He spent a lot of time traveling to and from California. He also owned, at one time, a home in San Diego.

12. The evidence shows that respondent simultaneously owned residences in Florida, Arizona and Fremont, California. When arrested, he had in his possession tickets to fly to Hong Kong and three checkbooks containing in excess of \$25,000. He denies having held interests in "shell" corporations, being a money launderer, possessing large amounts of foreign cash and owning more than the properties noted above. He admits to possessing numerous casino credit cards but denies having a large line of credit. He denies being a gambling addict. He asserts he borrowed money from the casinos to pay California State back taxes and attorney fees but none for gambling.

13. Following his release from incarceration, he sought financial aid and obtained employment selling billboard advertisements until January 2002. He has not worked since. His second marriage ended in divorce. He avers that Kaiser filed a civil suit against him after his arrest and seized all of his assets in Fremont, Arizona and Florida and all of his bank accounts. He avers he has lost all of his assets. He relies on friends for support. His parole will terminate in 2004. He has not paid any of his fines and fees to the State. He currently is under investigation by the Internal Revenue Service.

14. The costs incurred by the Board of Pharmacy in connection with the investigation and prosecution of this matter were established as follows:

a. Inspector's costs for 51.5 hours @ \$65 per hour =	\$3,347.50
b. Attorney General's costs for 13.5 hours @ \$100 per hour =	1,350.00
c. Attorney General's costs for 17.75 hours at \$106 per hour =	1,881.50
d. Attorney General's costs for 2.75 hours @ \$112 per hour =	308.00
e. Attorney General's costs for 16.25 hours @ \$120 per hour =	1,820.00
TOTAL COSTS AS OF THE FILING OF THE ACCUSATION TO COMMENCEMENT OF THE HEARING =	\$8,707.00

LEGAL CONCLUSIONS

1. Cause for discipline exists under Business and Professions Code sections 4301(f), 4301(j), 4301(l), 4301(o) and 490, separately and jointly.

2. Respondent asserts he now is rehabilitated, is considering going into Latin America to perform volunteer work and has been humbled by his incarceration. The evidence, however, shows little rehabilitation and no mitigation regarding his illegal conduct. Following his release on parole, respondent worked for five months. He has been unemployed since then. He has not paid the State any of the fees and fines ordered. According to his testimony, he has not paid Kaiser any restitution because of the civil suit filed against him. He asserts he no longer has any assets and is relying on good friends for his maintenance. Yet, respondent called no witnesses to testify on his behalf and offered no statements or evaluations from persons authenticating his competency to practice pharmacy. He has not participated in any community or church activities since his release parole date.

3. Foremost among the qualifications for licensing are good moral character and fitness. For the individual who has committed an act that would disqualify him as possessing these qualifications, the essential question is whether that individual has become rehabilitated. Rehabilitation is the process of regaining the lost character trait or establishing the absent one to the extent that good moral character is regained.

4. Consideration has been given to the following factors:

- a. Respondent's conduct occurred from the mid-1990s to May 2000 when he was arrested. His conviction occurred in March 2001.
- b. Respondent has not established his reputation in his community.
- c. Respondent has not shown a stable employment record since his release on parole.

- d. Respondent has not demonstrated an effort to become part of his community through participation in youth, social, welfare, religious or other similar endeavors in the community.
- e. Respondent is still on parole.
- f. The seriousness of respondent's illegal conduct and convictions.

5. There is, in addition, a cloud of suspicion remaining over the motivation behind respondent's illegal conduct. Despite his ready explanations for owning three residences simultaneously, possessing numerous casino credit cards and suggestions of possession of large sums of money, reasonable inferences may be drawn from other evidence (Exhibit 4, for example) that raise serious questions about his truthfulness and honesty.

6. The evidence simply does not show that enough time has elapsed since respondent's conduct and convictions for him to establish sufficient rehabilitation to warrant reinstating his license either unfettered or conditionally.

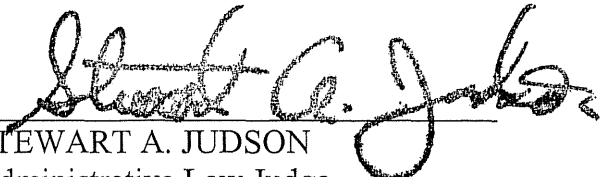
7. The Board of Pharmacy is entitled to reimbursement for its reasonable costs of investigation and prosecution up to the date of the hearing under Business and Professions Code section 125.3. Those costs are found in Finding 14.

ORDER

1. Pharmacy License No. RPH 31703 of George Paul Chiu is revoked under Determination 1.

2. George Paul Chiu shall remit to the Board the sum of \$8,707 under Determination 7.

DATED: May 13, 2002


STEWART A. JUDSON
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GEORGE PAUL CHIU
1160 Lincoln Avenue, Apt. 210
Walnut Creek, CA 94596

Pharmacist License No. RPH 31703

Respondent.

Case No. 2367

OAH No. N 2002010263

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This Decision shall become effective on July 19, 2002.

IT IS SO ORDERED June 19, 2002.

DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

JOHN D. JONES
Board President

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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.

12 GEORGE PAUL CHIU
16433 N 106th Place
13 Scottsdale, AZ 85259

A C C U S A T I O N

14 Pharmacist License No. RPH 31703

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Patricia F. Harris ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
21 Affairs.

22 2. On or about December 19, 1977, the Board of Pharmacy issued
23 Pharmacist License Number RPH 31703 to GEORGE PAUL CHIU ("Respondent"). The
24 Pharmacist License will expire on January 31, 2002, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy ("Board"),
27 under the authority of the following sections of the Business and Professions Code ("Code").

28 4. Section 4300 of the Code states that every license, permit, or certificate

1 issued by the Board may be disciplined.

2 5. Section 4301 of the Code states:

3 The Board shall take action against any holder of a license who is guilty of
4 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
5 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
6 following:

7 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
8 deceit, or corruption, whether the act is committed in the course of relations as a licensee
9 or otherwise, and whether the act is a felony or misdemeanor or not.

10 (j) The violation of any of the statutes of this state or of the United States
11 regulating controlled substances and dangerous drugs.

12 (l) The conviction of a crime substantially related to the qualifications, functions,
13 and duties of a licensee under Chapter 9 (commencing with Section 4000) of the Business
14 and Professions Code. The record of conviction of a violation of Chapter 13
15 (commencing with Section 801) of Title 21 of the United States Code regulating
16 controlled substances or of a violation of the statutes of this state regulating controlled
17 substances or dangerous drugs shall be conclusive evidence of unprofessional conduct.
18 In all other cases, the record of conviction shall be conclusive evidence only of the fact
19 that the conviction occurred. The board may inquire into the circumstances surrounding
20 the commission of the crime, in order to fix the degree of discipline or, in the case of a
21 conviction not involving controlled substances or dangerous drugs, to determine if the
22 conviction is of an offense substantially related to the qualifications, functions, and duties
23 of a licensee under Chapter 9 (commencing with Section 4000) of the Business and
24 Professions Code. A plea or verdict of guilty or a conviction following a plea of nolo
25 contendere is deemed to be a conviction within the meaning of this provision. The board
26 may take action when the time for appeal has elapsed, or the judgment of conviction has
27 been affirmed on appeal or when an order granting probation is made suspending the
28 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the

1 Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of
2 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
3 or indictment.

4 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
5 abetting the violation of or conspiring to violate any provision or term of Chapter 9
6 (commencing with Section 4000) of the Business and Professions Code or of the
7 applicable federal and state laws and regulations governing pharmacy, including
8 regulations established by the board.

9 6. Section 490 of the Code states:

10 "A board may suspend or revoke a license on the ground that the licensee has
11 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
12 duties of the business or profession for which the license was issued. A conviction within the
13 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
14 contendere. Any action which a board is permitted to take following the establishment of a
15 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
16 been affirmed on appeal, or when an order granting probation is made suspending the imposition
17 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
18 Penal Code."

19 7. Section 118, subdivision (b), of the Code provides that the suspension,
20 expiration, surrender, cancellation of a license shall not deprive the Board of jurisdiction to
21 proceed with a disciplinary action during the period within which the license may be renewed,
22 restored, reissued or reinstated.

23 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
24 request the administrative law judge to direct a licensee found to have committed a violation or
25 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
26 and enforcement of the case.

27
28 9. Respondent is subject to disciplinary action under sections 490 and

1 4301(l) of the Code in that respondent was convicted of crimes substantially related to the
2 practice of pharmacy. The circumstances are as follows:

3 a. On March 8, 2001 respondent was convicted of two counts of
4 violating Penal Code sections 487a/508 (grand theft/embezzlement); two counts of violating
5 Penal Code sections 459-460b (second degree commercial burglary); two counts of violating
6 Penal Code section 496(a) (receiving stolen property); one count of violating Health and Safety
7 Code section 11351 (possession of controlled substances for sale); and one count of violating
8 Health and Safety Code section 11378 (possession of controlled substances for sale) in Contra
9 Costa County Superior Court case number 04-121095-4 entitled People of the State of California
10 vs. George Paul Chiu.

11 b. The circumstances surrounding the conviction are that on May 19
12 and 20, 2000 respondent was working at a Kaiser Foundation Health Plan Pharmacy in Antioch.
13 A surveillance camera showed respondent diverting 24 bottles of Vicodin #100, as well as
14 Darvocet, Viagra, and Allegra and other dangerous drugs without authorization. Subsequent
15 searches of respondent's car and apartment in Oakland revealed respondent had taken 580 bottles
16 of dangerous drugs and controlled substances belonging to Kaiser. The value of the drugs taken
17 by respondent is approximately \$84,904.42.

18 10. Respondent is subject to disciplinary action under section 4301(f) of the
19 Code in that respondent committed acts involving moral turpitude, dishonesty, fraud, deceit
20 and/or corruption. The allegations contained in paragraph 9 above are re-alleged and
21 incorporated by reference as if fully set forth.

22 11. Respondent is subject to disciplinary action under sections 4301(j) and
23 4301(o) of the Code in that respondent violated Health and Safety Code sections 11351 and
24 11378. The allegations contained in paragraph 9 above are re-alleged and incorporated by
25 reference as if fully set forth.

26 PRAYER

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein
28 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1 1. Revoking or suspending Pharmacist License Number RPH 31703, issued
2 to GEORGE PAUL CHIU;

3 2. Ordering GEORGE PAUL CHIU to pay the Board of Pharmacy the
4 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
5 Professions Code section 125.3;

6 3. Taking such other and further action as deemed necessary and proper.

7 DATED: 11/9/01

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P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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